HONOURABLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.20784 OF 2001

DATE: -03-2006

Between:

M. Mohammed S/o. Imam Sab,

aged 34 years, 8/286, Court Road,

Anantapur. .. Petitioner

AND

Andhra Pradesh State Road Transport Corp.,

Rep. by its Depot Manager,

Hindupur Depot, Hindupur, Anantapur District

& another

.. Respondents

HONOURABLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No. 20784 OF 2001

ORDER:

This writ petition has been filed by the petitioner to quash the award passed by the Labour Court-I, Anantapur-

2nd respondent in I.D. No.159 of 1998 dated 26-06-2000 in so far as not reinstating

the petitioner into service with continuity of service and back wages, and consequently direct the

1st respondent to extend the benefit of continuity of service and back wages.

The case of the petitioner is that he was employed as Conductor in A.P. State Road Transport Corporation (for short 'Corporation') in 1988 and his services were regularized in 1989. The petitioner states that on 31-10-1997, while he was on duty in bus bearing No.AP9Z – 7496 on route Gorribiddanur to Hindupur, a check was conducted by the checking officials at Stage No.6/5 and thereafter issued charge sheet dated 13-11-1997 with the following charges:

1. "For having failed to observe the rule 'Issue and Start' while you were conducting the bus No.AP9Z 7496 on route Gowribidanur to Hindupur on 31-10-97".

2. "For having failed to issue ticket in spite of collecting the requisite fare of Rs.3/- from a passenger who boarded the bus at Gowribidanur and found alighting at Viduraswartham ex-stages 7 to 5".

3. "For having closed the S.R. with all denominations up to stage No.5 without completing the above ticket issues".

4. "For having misbehaved with the TTIs and instigated the passengers to revolt on the TTIs and made the passenger to run away from the spot duly holding the hand of checking official".

5. "For having interfered while recording the service driver's statement and instigated the passengers to tamper the records duly creating tension".

The petitioner submitted his explanation dated 18-11-1997 denying the charges framed against him, and it is the case of the petitioner that the respondents without considering the same, conducted the enquiry, and based on the report of the enquiry officer, which held that except charge No.3, the other charges were proved, the disciplinary authority issued a show cause notice and finally vide proceedings dated 18.06.1998 removed the petitioner from service. Against which, he filed an appeal before the appellate authority, and as there was no response, he raised industrial dispute in I.D. No.159 of 1998 before the Labour Court. It is the case of the petitioner that the Labour Court without properly appreciating the evidence on record, directed the Corporation to appoint the petitioner as Conductor afresh without any back wages and continuity of service. Hence, the present writ petition has been filed seeking direction to the Corporation to grant relief of reinstatement with continuity of service and back wages.

Heard the learned counsel for the petitioner as well as the

1st respondent and perused the material on record.

Learned counsel for the petitioner contends that the petitioner through out his service worked without any remark, and the misconduct alleged against the petitioner is erroneous. He contends that the Labour Court failed to see that the passenger who has not tendered the fare and collected the ticket has ran away from the bus to avoid penal consequences, and while the petitioner and other passengers

ran behind him to get hold of him, the checking officials exercised the check, forcibly obtained SR and closed the same up to stage No.5 and foisted a case against the petitioner. He further contends that the Labour Court failed to see that the Corporation did not examine any of the passengers and even the driver of the vehicle, except the checking official who is an interested witness, as such, it is clear that there is no irregularity committed by the petitioner and the charges framed against the petitioner are false and baseless. The charges levelled against the petitioner are concocted one, hence denial of reinstatement of the petitioner with continuity of service and back wages is disproportionate to the misconduct alleged. He submits that the impugned award is against the principles of natural justice and not at all justifiable, and as such, prayed that the Corporation be directed to reinstate the petitioner into service with continuity of service and back wages.

The respondents filed counter. Learned Standing Counsel for the Corporation reiterated the counter averments and supported the impugned award stating that there is no infirmity or illegality warranting interference of this Court. Hence, he prays to dismiss the writ petition.

From a perusal of the material record, the main charges levelled against the petitioner are that while conducting the bus bearing No.AP9Z – 7496 on route Gowribidanur to Hindupur on
31-10-1997, the petitioner failed to observe the rule 'issue and start', having collected an amount of Rs.3/- from a passenger, who boarded the bus at Gowribidanur and found alighting at Viduraswartham ex-stages 7 to 5, failed to issue ticket to him, and misbehaved with the TTIs at the time of check.

The Corporation held a domestic enquiry and the enquiry officer found that except charge No.3 all other charges were proved against the petitioner and basing on the report of the enquiry officer, after serving all the material documents to the petitioner and giving a reasonable opportunity to explain as to why he should not be removed from service, the Corporation removed the petitioner from service, since the explanation submitted by him was not satisfactory. Against which the petitioner raised industrial dispute before the Labour Court and the Labour Court after an elaborate consideration of the matter and upon appreciating the material available on record, observed that the charges levelled against the petitioner are proved beyond reasonable doubt and the punishment imposed by the Corporation is justified but is disproportionate to the gravity of the charge. Therefore, the Labour Court, taking into consideration that the petitioner alone is the breadwinner of his family, directed the Corporation to appoint the petitioner afresh as Conductor to meet the ends of justice. Had the Labour Court held that the charges leveled against the petitioner are not proved, then the petitioner would have been justified in contending that he should be awarded continuity of service and back wages, but that is not the case, the Labour Court having held that the charges leveled against the petitioner are proved, has taken a lenient view and ordered fresh appointment.

The award passed by the Labour Court is a discretionary one and such an

order cannot be interfered with by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, and more so when the petitioner failed to point out any illegality, infirmity or perversity committed by the Labour Court in denying the reinstatement of the petitioner with continuity of service and back wages and directing the Corporation to appoint him as Conductor afresh in the Corporation, in exercise of its discretionary power.

In the above view of the matter, I am not inclined to accept the contentions urged by the learned counsel for the petitioner in support of the writ petition that the punishment imposed against the petitioner is disproportionate to the misconduct alleged.

The Writ Petition is devoid of merits, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J

Date: March, 2006.

KSR